American Chemistry Council Good Chemistry Makes It Possible

May 30, 2002

Mr. Ron Josephson
Office of Solid Waste (5304W)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, DC 20460

RE: Location of "Headworks"

Dear Mr. Josephson:

Thank you very much for the recent telephone conversation regarding our letter dated March 5, 2002, pertaining to 40 CFR 261.3(a)(2)(iv)(A) and (B), revisiting the current "headworks" exemption. During our conversation you raised a few points to which the American Chemistry Council (ACC) would like to respond with additional information.

Distinction Between Wastewater Treatment Headworks and CAA "Point of Determination" and RCRA "Point of Generation"

During our conversation we discussed the distinctions between the location of the wastewater treatment headworks and the CAA's "point of determination (POD)" and RCRA's "point of generation (POG)." ACC agrees with EPA's position that the headworks location and POD or POG are not the same. You also mentioned that EPA would benefit from an explanation of their differences. Towards that end, ACC offers the following points.

The POD and POG are regulatory definitions of process locations where a pollutant may be generated. Headworks, on the other hand, is a descriptive term used to identify the group of equipment after the collection system, where raw (untreated) wastewater is aggregated prior to treatment in a wastewater treatment system.

Since the RCRA headworks exclusion was originally promulgated, EPA has issued a number of regulations addressing potential organic air emissions which cover emissions between the POD and the headworks. Therefore, the justification for the current exemptions' reliance on a mass balance calculation is no longer needed to prevent releases between the POD and the headworks.

In its air regulations, EPA has undertaken considerable analysis of what levels of emissions require controls, and we believe these air program regulatory processes are the better mechanism to control emissions from wastewaters. In addition, reliance on the CAA is consistent with the RCRA's obligation to avoid duplication with other federal environmental laws[1].

Example 2 Flowchart - DAF Unit Hydrocarbon Return Line to the Process?

In studying the examples ACC submitted to EPA on March 5, 2002, you raised the question "Is there a line that is not shown in example 2 that would return hydrocarbons from the DAF unit back to the process?"

In waste water treatment plants, there is no return to the process directly from the Dissolved Air Flotation (DAF) unit. However in the specific case of Example 2, some of the hydrocarbons that would be present at the DAF would be recovered downstream at the Driers (driven overhead and then recondensed) and would be returned to the process from that point. The only other hydrocarbon return to the process would be at the Oil/Water Separator. The drawing only shows the water streams, thus the hydrocarbon return streams are not represented.

Example 3 – Multiple Ownership Issues

You stated that the current regulations address discharges to POTWs or privately owned commercial treatment works, and EPA does not intend to change anything unless concerns are raised.

ACC believes that the current regulatory wording is acceptable. However, the issue of different owners of waste generators and waste treatment systems is real, and in this world of corporate mergers, joint ventures, acquisitions and divestitures, it will become increasingly common. Our concern is that the ownership situations we show in the example not negate the headworks exemption. The critical concern is that the wastestream is appropriately and responsibly treated and that any influent mixture will not upset the wastewater treatment system. The concentration of the constituents at the headworks should address that, regardless of the original "owner" of the constituents. As now, the owner of the treatment system would retain responsibility for compliance with all discharge limitation.

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[1] 42 USC § 6905 (b)(1) "The Administrator shall integrate all provisions of this chapter for purposes of administration and enforcement and *shall avoid duplication*, to the maximum extent practicable, with the appropriate provisions of the Clean Air Act [42 U.S.C.A. § 7401 et seq.], the Federal Water Pollution Control Act [33 U.S.C.A. § 1251 et seq.], the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C.A. § 136 et seq.], the Safe Drinking Water Act [42 U.S.C.A. § 300f et seq.], the Marine Protection , Research and Sanctuaries Act of 1972 [33 U.S.C.A. § 1401 et seq.]. and such other Acts of Congress as grant regulatory authority to the Administrator." (emphasis added)

Addition of 2-Nitropropane to the 40 CFR 261.3(a)(2)(iv) Exemption

When ACC first considered the headworks exemption, we noted that there were some inconsistencies between the list of chemicals included in the exemption and the chemicals listed in F001, F002, F004, and F005. Since 2-nitropropane is identified in the F-listings, ACC is recommending that it also be evaluated for included in the exemption list as a matter of consistency, as was done with other solvents. However, if EPA determines that it cannot include this chemical, we believe such a decision will not negate, to any significant extent, the benefits of an expanded headworks exemption.

Point of Compliance Immediately Prior to the Treatment Units

Based on our most recent discussion, it is ACC's understanding that EPA intends to define the point of compliance to be at the point where wastewaters are aggregated immediately prior to the treatment units. ACC agrees with this approach. A point of compliance prior to the treatment units could include various recycle and partially treated flows and would assure that the system could appropriately handle the concentration of influent.

Again, thank you for the opportunity to clarify points raised in ACC's March 5, 2002, letter offer you additional thoughts on the Headworks Exemption. We look forward to working with you and your colleagues on this and other reforms to the RCRA mixture and derived-from rules. If you have questions, please contact me at 703-741-5240 or Brad_Shanks@americanchemistry.com.

Sincerely,

Brad Shanks
Manager
ACC Waste Issues Team